IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 29.03.2007

CORAM:

THE HONOURABLE MR.JUSTICE A.C.ARUMUGAPERUMAL ADITYAN

Crl.R.C.No.1891 of 2002

Dr.Stanley .. Revision Petitioner/Complainant.

Vs.

1.The State rep by
The Sub-Inspector of Police,
B4, Race Course Police Station,
Coimbatore District.

2.S.Babu
3.K.Alagesan
4.Vellaichami
5.A.Louise
6.L.Jayanth @ Jaik
7.V.Muralidharan
8.K.Diwakaran
9.P.Devaraj .. Respondents/Respondents.

Prayer: This Criminal Revision has been preferred under Section 397 and 401 of Cr.P.C., to set aside the order dated 10.10.2001 passed in C.C.No.251 of 2001 on the file of the Judicial Magistrate No.III, Coimbatore by allowing this Criminal Revision case.

For Appellant : Mr.P.Kumaran
For Respondents : Mr.V.R.Balasubramanian
Additional Public Prosecutor (For R1)
Mr.AR.L.Sundaresan, Senior Counsel,
for Mrs.AL. Gandhimathi (For R3,R7 & R.9)

ORDER

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This Revision has been preferred against the order in C.C.No.251 of 2001 on the file of the Judicial Magistrate No.III, Coimbatore.

2. The short facts of the prosecution case is that A8-Devaraj is the owner of a wine shop by name Elight Wines at Munusamy Garden Road, Coimbatore. On 25.9.2000 at about 11.00 pm the complainant Dr.Stanley went to the above said wine shop for the purpose of consuming liquor and after consuming liquor the complainant had demanded more liquor which was rightly rejected by the accused. There arose a commotion in which the

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complainant Dr.Stanley was assaulted by the accused with hand and sticks causing simple and grievous injuries. The specific overtact attributed against A2, A3, A4, A5 & A7 is that the accused have assaulted Dr.Stanley with hand causing simple injury and A1 & A6 have attacked Dr.Stanley with stick causing grievous injury and that A2 & A3 have torn the shirt pocket of Dr.Stanley thereby committing damage to the tune of Rs.500/-. A1 to A7 are the employees under A8.

3. The complaint was taken on file in Cr.No.330 of 2000 by the Inspector of Police, B4 Race Course Police Station, Coimbatore City. The Inspector of Police after following the formalities and examining the witnesses and after recording their statements, has filed the charge sheet against A1 to A8 before the Judicial Magistrate No.III, Coimbatore. After taking the charge sheet on file, the learned Judicial Magistrate issued summons to the accused. On appearance of the accused copies under Section 207 of Cr.P.C., were furnished to the accused and charges under Section 147 IPC were framed against A1 to A7 and charges under Section 323 IPC were framed against A2, to A5 & A7 and charges under Section 325 IPC were framed against A1 & A6 and charges under Section 427 IPC were framed against A2 & A3 and charges under Section 4(1)(k) of the Tamil Nadu Prohibition Act and under Section 24 of the City Police Act were framed against A8 and when questioned all the accused pleaded guilty.

4. The learned Judicial Magistrate had convicted A1 to A7 under Section 147 IPC and imposed a fine of Rs.300/- each with default sentence and A1 & A6 were convicted and sentenced under Section 325 IPC and slapped a fine of Rs.1,500/- each with default sentence and A2 to A5 & A7 have been convicted under Section 323 IPC and sentenced to pay a fine of Rs.500/- each with default sentence and A2 & A3 have been convicted under Section 427 IPC and sentenced to pay a fine of Rs.500/- each with default sentence and A8 was convicted under Section 4(1)(k) of the Tamil Nadu Prohibition Act and sentence to pay a fine of Rs.500/- with default sentence and he(A8) was also convicted under Section 24 of the City Police Act and sentenced to pay a fine of Rs.1000/- with default sentence and further A3 was also sentenced till the raising of the Court under Section 24 of the City Police Act. Aggrieved by the findings of the learned trial judge the complainant-Dr.Stanley preferred this revision petition.

5. Now the point for determination in this revision is whether the conviction and sentence imposed against the accused are liable to the enhanced for the reasons stated in the memorandum of revision.

6.The Point:- The case of the prosecution is that on the date of occurrence i.e., on 25.9.2000 at about 11.00 pm when the complainant, Dr.Stanley, had visited the wine shop run by A8 in the name of 'Elight Wines' at Munusamy Garden Road, Coimbatore, there arose a quarrel between the complainant and the accused which resulted in the assault by the accused with hand and stick causing simple and grievous injuries on the complainant, Dr.Stanley/revision petitioner. When the offences were

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explained to the accused and questioned the accused have pleaded guilty. It cannot be said that the punishment imposed by the learned trial judge under Section 147, 323, 427 IPC and under Section 4(1)(k) of the Tamil Nadu Prohibition Act and under Section 24 of the City Police Act, are insufficient. On the other hand the conviction and sentence under Section 325 IPC against A1 & A6 in my opinion is grossly inadequate and also not in conformity with the law laid down under Section 325 IPC. It is seen from the accident register copy relating to the complainant due to the assault by stick, the complainant has lost three teeth on the left upper jaw. The punishment provided under Section 325 IPC is the imprisonment and also with fine. Section 325 IPC runs as follows:-

> "Whoever, except in the case provided for by Section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

The learned trial judge has imposed only a fine against A1 and A6 under Section 325 IPC which necessitated this Court to interfere with the same. Point is answered accordingly.

7. In the result, the revision is partly allowed and the conviction and sentence against A1 & A6 in C.C.No.251 of 2001 on the file of the Judicial Magistrate No.III, Coimbatore, is set aside and the case is remanded to the trial Court for imposing necessary punishment in accordance with law and the trial court's judgment in other respects is confirmed. The learned trial judge is directed to dispose of the case after summoning A1 & a6 and after following the procedures contemplated under law.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

ssv

To,
1.The Judicial Magistrate No.III, Coimbatore.

2.-do- though The Chief Judicial Magistrate, Coimbatore.

3.The Public Prosecutor, High Court, Madras.

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4.The Sub-Inspector of Police,
B4, Race Course Road Police Station,
Coimbatore.

+ 1 CC To Mr. S.Subbiah, Advocate SR NO.20810

+ 1 CC To Ms.A.L.Gandhimathi, Advocate SR NO.20336

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Gp/4.5.

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